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UNCLAS KINGSTON 001328

SIPDIS

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SUBJECT: NEW RULES FOR PETROLEUM SECTOR

REF: KINGSTON 294

1. Representatives from ChevronTexaco contacted Emboffs on May 3 requesting an urgent meeting to discuss developments in the Jamaican petroleum market. Econoff, FSN Econ Specialist and FCS Specialist met with Maria Pis-Dudot, Regional Latin American Manager for Policy, Government and Public Affairs; Kevin Wolahan, General Manager for Retail Caribbean; and David Sterling, ChevronTexaco Marketing Manager and Legal Representative.

2. Pis-Dudot updated Emboffs on the Jamaican Fair Trade Commission's (FTC) Code of Conduct for the petroleum industry (reftel). Despite earlier threats of fines and enforcement, the FTC has let the code remain a voluntary measure. Pis-Dudot stated that the operations of the marketing companies had, therefore, not been affected. However, she said, they feel that it sets a bad precedent of allowing the GOJ to interfere in private contracts.

3. The current problem, according to Pis-Dudot, lies with the new regulations enacted by the Bureau of Standards Jamaica (BSJ) on May 1, apparently in response to allegations by retailers that they were receiving less fuel than they had paid for from the marketing companies. The marketing companies were first informed of these regulations when they were summoned to a meeting on April

29. At that meeting, the ChevronTexaco representatives said Dr. Omer Thomas, executive director of the BSJ, informed the marketing companies that they had until May 29, 2005 to fully comply with the new regulations. Pis-Dudot complained that Thomas dismissed the protests and technical questions of the marketing companies as immaterial. (Note: Emboffs have known Omer Thomas to act in a high-handed manner on agricultural issues in the past. End Note.)

4. The new regulations require the marketing companies to purchase and install flow meters at all of their service stations, and to apply a temperature correction factor to all petroleum being sold. Wolahan told emboffs that the required equipment would require significant capital investment, and that the cost would be passed to the consumers. He also stated that the temperature correction factor wasn't an issue in Jamaica, where the gas is put into the trucks, offloaded to the stations, and pumped into cars at the same ambient temperature.

5. Pis-Dudot outlined ChevronTexaco's concerns about the new regulations as follows: A) The enactment of the regulations didn't follow standard GOJ procedures, being gazetted in November, but never going through a draft status wherein stakeholders could provide feedback; B) The BSJ is acting as an enforcement agency in the jurisdiction of the FTC; C) There was no advance consultation with the marketing companies; D) The new laws will be expensive to implement, with no benefit to consumers - only to the retailers; E) Media coverage of the new regulations expressly implies that the marketing companies have been stealing from the retailers, which Pis-Dudot strongly denies; F) Applying a temperature correction factor to petroleum shipment accounting will result in fewer tax dollars being paid to the Ministry of Finance by marketing companies; and G) GOJ interference in private contractual agreements may cause ChevronTexaco to shift their investments to other markets.

6. Pis-Dudot and Wolahan said they will bring their concerns to Thomas' supervisor, Minister Phillip Paulwell at the Ministry of Commerce, Science, Technology and Energy (MCSTE), in the hopes that pressure from above will cause the BSJ to amend or repeal the new regulations. Should that effort fail, they plan to ask for USG assistance.

ROBINSON